

IMPLEMENTATION OF TREATY OBLIGATIONS

Pub. L. 109-366, §6(a), Oct. 17, 2006, 120 Stat. 2632, provided that:

“(1) IN GENERAL.—The acts enumerated in subsection (d) of section 2441 of title 18, United States Code, as added by subsection (b) of this section, and in subsection (c) of this section [enacting section 2000dd-0 of Title 42, The Public Health and Welfare], constitute violations of common Article 3 of the Geneva Conventions prohibited by United States law.

“(2) PROHIBITION ON GRAVE BREACHES.—The provisions of section 2441 of title 18, United States Code, as amended by this section, fully satisfy the obligation under Article 129 of the Third Geneva Convention for the United States to provide effective penal sanctions for grave breaches which are encompassed in common Article 3 in the context of an armed conflict not of an international character. No foreign or international source of law shall supply a basis for a rule of decision in the courts of the United States in interpreting the prohibitions enumerated in subsection (d) of such section 2441.

“(3) INTERPRETATION BY THE PRESIDENT.—

“(A) As provided by the Constitution and by this section, the President has the authority for the United States to interpret the meaning and application of the Geneva Conventions and to promulgate higher standards and administrative regulations for violations of treaty obligations which are not grave breaches of the Geneva Conventions.

“(B) The President shall issue interpretations described by subparagraph (A) by Executive Order published in the Federal Register.

“(C) Any Executive Order published under this paragraph shall be authoritative (except as to grave breaches of common Article 3) as a matter of United States law, in the same manner as other administrative regulations.

“(D) Nothing in this section shall be construed to affect the constitutional functions and responsibilities of Congress and the judicial branch of the United States.

“(4) DEFINITIONS.—In this subsection:

“(A) GENEVA CONVENTIONS.—The term ‘Geneva Conventions’ means—

“(i) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3217);

“(ii) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of the Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

“(iii) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

“(iv) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

“(B) THIRD GENEVA CONVENTION.—The term ‘Third Geneva Convention’ means the international convention referred to in subparagraph (A)(iii).”

EXECUTIVE ORDER NO. 13440

Ex. Ord. No. 13440, July 20, 2007, 72 F.R. 40707, which interpreted the Geneva Conventions Common Article 3 as applied to a program of detention and interrogation operated by the Central Intelligence Agency, was revoked by Ex. Ord. No. 13491, §1, Jan. 22, 2009, 74 F.R. 4893, set out as a note under section 2000dd of Title 42, The Public Health and Welfare.

§ 2442. Recruitment or use of child soldiers

(a) OFFENSE.—Whoever knowingly—

(1) recruits, enlists, or conscripts a person to serve while such person is under 15 years of age in an armed force or group; or

(2) uses a person under 15 years of age to participate actively in hostilities;

knowing such person is under 15 years of age, shall be punished as provided in subsection (b).

(b) PENALTY.—Whoever violates, or attempts or conspires to violate, subsection (a) shall be fined under this title or imprisoned not more than 20 years, or both and, if death of any person results, shall be fined under this title and imprisoned for any term of years or for life.

(c) JURISDICTION.—There is jurisdiction over an offense described in subsection (a), and any attempt or conspiracy to commit such offense, if—

(1) the alleged offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22))) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act (8 U.S.C. 1101(a)(20)));¹

(2) the alleged offender is a stateless person whose habitual residence is in the United States;

(3) the alleged offender is present in the United States, irrespective of the nationality of the alleged offender; or

(4) the offense occurs in whole or in part within the United States.

(d) DEFINITIONS.—In this section:

(1) PARTICIPATE ACTIVELY IN HOSTILITIES.—The term “participate actively in hostilities” means taking part in—

(A) combat or military activities related to combat, including sabotage and serving as a decoy, a courier, or at a military checkpoint; or

(B) direct support functions related to combat, including transporting supplies or providing other services.

(2) ARMED FORCE OR GROUP.—The term “armed force or group” means any army, militia, or other military organization, whether or not it is state-sponsored, excluding any group assembled solely for nonviolent political association.

(Added Pub. L. 110-340, §2(a)(1), Oct. 3, 2008, 122 Stat. 3735.)

CHAPTER 119—WIRE AND ELECTRONIC COMMUNICATIONS INTERCEPTION AND INTERCEPTION OF ORAL COMMUNICATIONS

Sec.

2510.

Definitions.

2511.

Interception and disclosure of wire, oral, or electronic communications prohibited.

2512.

Manufacture, distribution, possession, and advertising of wire, oral, or electronic communication intercepting devices prohibited.

2513.

Confiscation of wire, oral, or electronic communication intercepting devices.

[2514.

Repealed.]

2515.

Prohibition of use as evidence of intercepted wire or oral communications.

2516.

Authorization for interception of wire, oral, or electronic communications.

2517.

Authorization for disclosure and use of intercepted wire, oral, or electronic communications.

¹So in original. An additional closing parenthesis probably should precede the semicolon.